

*** THIS DOCUMENT IS CURRENT THROUGH THE JANUARY 2004 REVISIONS ***

TITLE 16. CONSUMERS, COMMERCIAL PRACTICES, & CIVIL INFRACTIONS

CHAPTER 12. PROPRIETARY SCHOOLS

CDCR 16-1200 (2004)

16-1200. GENERAL PROVISIONS

1200.1 The purpose of this chapter is to establish licensing requirements for proprietary schools in the District, and for all agents acting on behalf of proprietary schools in soliciting students.

1200.2 The provisions of this chapter are designed to protect prospective and enrolled students from unscrupulous and financially irresponsible proprietary schools and to ensure, to the extent possible, that the promotional information provided to the public by proprietary schools is accurate and honest.

1200.3 The provisions of this chapter shall apply to all proprietary schools located in the District and to all agents operating in the District.

AUTHORITY: Unless otherwise noted, the authority for this chapter is An Act approved July 1, 1902, 32 Stat. . 628, § 7, par. 45 and paragraph 391 of Reorganization Plan No. 3 of 1967 (D.C. Code § 47-2842 (1981 Ed.)).

CDCR 16-1201 (2004)

16-1201. LICENSE REQUIREMENTS

1201.1 No person shall operate a proprietary school in the District without having first obtained a license from the Department of Consumer and Regulatory Affairs (also referred to in this chapter as the "Department").

1201.2 The license shall be assigned or transferred only in accordance with the provisions of the Act approved July 1, 1932 (D.C. Code § 47-2801 et seq. (1981 Ed.)).

CDCR 16-1202 (2004)

16-1202. APPLICATION FOR LICENSE

1202.1 Any person desiring to obtain a proprietary school license or to renew a license, shall file an application with the Department upon forms provided by the Department.

1202.2 Each application for a proprietary school license, or for a renewal of a proprietary school license, shall be accompanied by a fee to be determined by the Department.

1202.3 Each licensed proprietary school or applicant for license shall upon request of the Department, make its records and files available to the Department at reasonable times for the purpose of discharging its responsibilities under this chapter.

1202.4 The application shall include, but not be limited to, the following information:

- (a) Title or name of the school, and location of its principal place of business;
- (b) The names of the owner or owners, officers, members of the board of directors, managing employees within the District, and any other person or business entity having a twenty-five (25%) or more ownership interest in the school;
- (c) The place or places where instruction will be given, as well as all offices and facilities located in the District;
- (d) The maximum student enrollment to be accommodated;
- (e) A current financial statement of the school prepared by a certified public accountant within thirty (30) days of the application and verified by the owner under oath;
- (f) The form and contents of the student enrollment agreement and contract (if not the same as enrollment agreement), which shall include the school's tuition and refund policy;
- (g) A schedule of all tuition, fees, and other charges, and a statement of the school's tuition refund policies;
- (h) A pamphlet listing all the courses offered and the educational objective of the course or plan;
- (i) A list of the names of all agents authorized to represent the school in soliciting prospective students, which shall be revised as necessary; and
- (j) Copies of all advertising used by proprietary schools during the preceding six months including transcripts of radio and television commercials.

CDCR 16-1203 (2004)

16-1203. GUARANTEE OF FINANCIAL RESPONSIBILITY BOND

1203.1 No proprietary school license shall be effective until a corporate surety bond or other security approved by the Department shall have been filed with the Department by the person applying for the license.

1203.2 The corporate surety bond shall be payable to the District, and shall be conditioned upon observance by the person applying for the license of all requirements of this chapter.

1203.3 Any student, or the student's parent or guardian, who is aggrieved by a violation of this chapter shall have a right of action on the bond for the recovery of money, or damages, or both.

1203.4 The amount of bond required to be filed by a proprietary school shall be ten thousand dollars (\$ 10,000).

CDCR 16-1204 (2004)

16-1204. ISSUANCE AND RENEWAL OF LICENSES

1204.1 Each proprietary school license shall be issued for a period of one (1) year beginning on November 1st and expiring on October 31st of the following year.

1204.2 Application for renewal of a license shall be filed in advance of the next license year, accompanied by the required bond and license fee.

1204.3 Licenses issued at any time after the beginning of the license year shall date from the first day of the month in which the license was issued and end on the thirty-first (31st) day of October following.

1204.4 Payment of license fees for licenses issued any time after the beginning of the license year shall be in a proportionate amount of the annual license fee.

CDCR 16-1205 (2004)

16-1205. PUBLICITY AND ADVERTISING

1205.1 Copies for all advertising used by a proprietary school, including transcripts of radio and television commercials, shall be submitted to the Commission upon its request.

1205.2 Foreign language advertising shall be submitted accompanied by an English translation.

1205.3 A guarantee of placement or employment for graduates shall in no way be promised or implied by any proprietary school or agent, nor be a part of their advertisement in any form.

1205.4 No proprietary school shall solicit students in the employment columns or any similar columns of newspapers or other publications with headings such as "Help-Wanted," "Employment," or "Business Opportunities."

1205.5 No proprietary school or its agents shall advertise or otherwise imply that the school is "supervised," "recommended," "endorsed," "accredited," or "approved" by the Department or any other department or agency of the District government.

1205.6 A proprietary school licensed under this chapter may include in its advertising the following legend:

"This school is licensed under the Proprietary School Regulations of the District of Columbia" or
"Licensed by D.C."

16-1206. AUTHORIZED AGENTS

1206.1 No person shall act as an agent for a proprietary school located in the District or elsewhere, without having first obtained an agent's permit from the Department.

1206.2 Each agent representing a proprietary school shall make application to the Department for an agent's permit, upon forms provided by the Department. An agent shall be required to obtain a separate permit for each proprietary school he or she represents.

1206.3 Each application shall be accompanied by a fee to be determined by the Department.

CDCR 16-1207 (2004)

16-1207. AGENT'S SURETY BOND

1207.1 No agent's permit (or renewal permit) shall become effective until the applicant for the permit has filed with the Department a corporate surety bond or other security approved by the Department.

1207.2 The corporate surety bond shall be payable to the District, and shall be conditioned upon observance of all requirements of this chapter.

1207.3 Any student, or the student's parent or guardian, who is aggrieved by a violation of this chapter by an agent shall have a right of action on the bond for the recovery of money, or damages, or both.

1207.4 The amount of bond required to be filed under this subsection shall be twenty-five hundred dollars (\$ 2,500).

1207.5 A proprietary school may file a blanket surety bond for all its authorized agents in an amount to be determined by the Department, but in no case greater than fifteen thousand dollars (\$ 15,000).

1207.6 Each agent's permit shall be issued for a period of one (1) year beginning on November 1st and expiring the following October 31st.

1207.7 Application for renewal of a permit shall be filed prior to the expiration of the permit, accompanied by the required bond and fee.

1207.8 An agent's permit issued after the beginning of the year shall be dated, and fees prorated, in the manner provided in § 1204.

CDCR 16-1208 (2004)

16-1208. AGENT'S IDENTIFICATION CARDS

1208.1 The Department, upon approval of an application for an agent's permit, shall prepare and deliver to each agent an identification card which shall contain the name and address of the agent and the employing school, and shall certify that the person whose name appears on the card is an authorized agent of that school.

1208.2 The identification card shall be shown by the agent to prospective students upon request.

1208.3 The year for which a permit is issued shall be prominently displayed on the card.

CDCR 16-1209 (2004)

16-1209. DENIAL, SUSPENSION, OR REVOCATION OF LICENSES AND PERMITS

1209.1 The Department may refuse to issue, or to renew, or may revoke or suspend the license of a proprietary school or the permit of an agent for any of the following reasons:

- (a) Willful violation of any provision of this chapter;
- (b) Furnishing false or misleading information to the Department, or failure to furnish information requested;
- (c) Furnishing false, misleading, or fraudulent information regarding the school or course of instruction to a prospective student or the student's parent(s) or guardian(s);
- (d) Engaging in false, misleading or fraudulent advertising or solicitations; or making any false promise likely to influence, persuade, or induce enrollments through agents, in advertising, or otherwise;
- (e) Failure to secure or maintain financial resources adequate for satisfactory conduct of the course of instruction offered;
- (f) Failure to secure or maintain the required corporate surety bond;
- (g) Conferring or attempting to confer a degree upon a student which purports to be the equivalent of a degree issued by a duly licensed institution of higher learning; or
- (h) Failure to conform to the tuition plan and refund policy, as approved by the Department.

CDCR 16-1210 (2004)

16-1210. NOTICE AND HEARINGS

1210.1 If the Department determines that there are grounds for denial, suspension, or revocation of a proprietary school license or agent's permit under this chapter, the Department shall first serve upon the applicant or licensee a written notice specifying with particularity the violations in question.

1210.2 The notice shall also inform the applicant or licensee of the right to request, within seven (7) days from service of notice, a hearing before the Department at which time the applicant or licensee may show cause why the application should not be denied, or the license or permit suspended or revoked.

1210.3 The notice to the applicant or licensee shall also specify what action, whether it be denial, suspension, or revocation, is contemplated and that the proposed action shall be taken if no hearing is requested.

1210.4 If action adverse to the applicant or licensee is taken by the Department after the hearing held pursuant to this section, the applicant or licensee shall have the right to appeal to the Board of Appeals and Review the Department's decision to refuse, suspend, or revoke the license. The request for an appeal shall be made within twenty-one (21) days following the Department's action.

CDCR 16-1211 (2004)

16-1211. REFUND POLICIES

1211.1 Each school shall furnish the Department with a schedule of its tuition and fees and its prepaid tuition plan and refund policy.

1211.2 Each student shall be provided seventy-two (72) hours to rescind any contract and repayment of all fees and tuition. This period will commence from the date of the signing but will not include or end on any Saturday or Sunday or legal holiday.

1211.3 Each student shall be provided, on a separate sheet, notice of the student's right to rescind the contract with seventy-two (72) hours of signing and notice of the fact that, upon rescission, the student will be returned all monies advanced to the school.

1211.4 Each student shall be provided a copy of the school's tuition plan and refund policy at the time of enrollment.

1211.5 Each school's refund policy shall be approved by the Department only when it is such that the amount retained by the school does not exceed an amount calculated in accordance with the following standards:

(a) The enrollment or registration fee shall be separately stated and the non-refundable portion thereof shall either be twenty percent (20%) of the total cost of the course or fifty dollars (\$ 50), whichever is less; Provided, that this refund policy shall apply only after the seventy-two (72) hour period immediately following signing has expired;

(b) All monies paid in excess of the nonrefundable portion of the enrollment or registration fee shall be refunded when an enrolled student requests, in the manner provided in the contract, cancellation before his or her scheduled class(es) begin(s); Provided, that this provision shall not apply to non-immigrant alien students as defined in § 1499; and

(c) If a student enters training and withdraws or is discontinued from training prior to completion of seventy-five percent (75%) of the scheduled program, the school shall refund to the student a sum which

does not vary more than ten percent (10%) from the exact pro rata portion of refundable tuition unexpended by the student.

1211.6 The prorated amount under § 1211.5(c) shall be determined by the ratio of the number of weeks or lessons in series serviced by the school of instruction completed by the student to the total number of weeks of instruction offered. Any portion of a week's attendance by a student shall be considered a full week's attendance for the purpose of this section. In the case of correspondence schools, any portion of a lesson in series shall be considered as a completed series.

1211.7 No school shall request nor accept more than ten percent (10%) of the total tuition prior to commencement of the program or schedule. This requirement shall not apply to non-immigrant alien students.

1211.8 Each school shall make every effort to ensure that enrolled students intend to complete the respective schedules or wish to withdraw.

1211.9 Adequate records shall be kept to ensure that students who delay in requesting a refund are accommodated; Provided, that the school is not required to honor a refund request submitted subsequent to the end of the scheduled program for which the student was enrolled.

1211.10 Any refund required to be made to a nonimmigrant alien student by the provisions of this section shall be payable to that student as follows:

(a) Within thirty (30) days after the Immigration and Naturalization Service of the United States has certified to the school which is obligated to make the refund that the non-immigrant alien student has departed from the United States; and

(b) Only in the legal currency of the country of which the non-immigrant alien student is a citizen.

CDCR 16-1212 (2004)

16-1212. CREDIT TRANSACTIONS

1212.1 A school shall not use any contract provision, oral or written representation, or other device or means to deny or abridge the benefits of any applicable Federal or District law intended to protect consumers or credit purchasers.

1212.2 A school shall not negotiate or assign a promissory note or other instrument or indebtedness executed by or on behalf of a student or the student's parents or guardians without first endorsing on the face of it a legend stating:

"Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby."

CDCR 16-1213 (2004)

16-1213. ENFORCEMENT AND PENALTIES

1213.1 Any person violating any provision of this chapter shall, upon conviction, be fined not more than three hundred dollars (\$ 300) or imprisoned for not more than ninety (90) days.

1213.2 If any provision of this chapter is adjudged unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected.

16-1299. DEFINITIONS

1299.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Agent - a person employed by a proprietary school, whether such school is located within or outside the District, who solicits in the District students or enrollees for the school by any means and in any place.

Department - the Department of Consumer and Regulatory Affairs.

Person - includes individuals, firms, partnerships, corporations, associations, and organizations.

Proprietary school - a privately-owned school in the District, or any branch, extension, or facility in the District of a proprietary school located elsewhere, which offers for a consideration resident or correspondence courses or training or instruction for the purpose of enabling an individual to improve his or her intellectual aptitude, or which purports to prepare or qualify individuals for employment in any occupation or trade or in work requiring mechanical, technical, artistic, or clerical skills.

The term "proprietary school" shall not include any of the following:

- (a) Residential Institutions providing exclusively elementary (including kindergarten) and secondary education;
- (b) Degree-granting institutions of higher learning licensed by the Educational Institution Licensure Commission or chartered by an Act of Congress;
- (c) Schools conducted by any person solely for the training of the employees of that person, and for which no fee is charged;
- (d) Any course of instruction offered by the District or federal government or any instrumentality of the District or federal government; or
- (e) Education which is solely avocational or recreational in nature, and institutions offering avocational or recreational education exclusively.

Student - a full-time or part-time enrollee in a proprietary school.

Non-immigrant alien student - any student having a residence in a foreign country who has acquired this status to pursue a full course of study in the United States.